

16-373 CA PUBLIC EMPLOYEES' RETIREMENT V. ANZ SECURITIES, INC.

DECISION BELOW: 655 Fed.Appx. 13

LOWER COURT CASE NUMBER: 15-1879

QUESTION PRESENTED:

This case presents two questions about whether, under *American Pipe & Construction Co. v. Utah*, 414 U.S. 538, 554 (1974), a member of a putative damages class can opt out of the class action and pursue its individual claims if the class action was timely, but the individual class member's complaint was filed more than three years after the offending conduct such that it could arguably be barred by a three-year statute of repose. The Second Circuit affirmed the dismissal of petitioner's claims as untimely, applying circuit precedent from a case in which this Court granted certiorari but did not reach the merits because the case settled. *See Police & Fire Ret. Sys. of Detroit v. IndyMac MBS, Inc.*, 721 F.3d 95 (2d Cir. 2013), *cert. granted sub nom., Pub. Emps.' Ret. Sys. of Miss. v. IndyMac MBS, Inc.*, 134 S. Ct. 1515 (2014), *cert. dismissed as improvidently granted*, 135 S. Ct. 42 (2014). Here, the court of appeals acknowledged a circuit split, and stated that "the Supreme Court is in the best position to resolve" these questions, which "implicate[] the very nature of *American Pipe* tolling."

The Questions Presented are:

1. Does the filing of a putative class action serve, under the *American Pipe* rule, to satisfy the three-year time limitation in Section 13 of the Securities Act with respect to the claims of putative class members? (Question granted in *IndyMac*)
2. May a member of a timely filed putative class action file an individual suit on the same causes of action before class certification is decided, notwithstanding the expiration of the relevant time limitations?

LIMITED TO QUESTION 1 PRESENTED BY THE PETITION.

CERT. GRANTED 1/13/2017